

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE**

CRYSTALLEX INTERNATIONAL CORP.,

Plaintiff,

v.

BOLIVARIAN REPUBLIC OF VENEZUELA,

Defendant.

No. 17 Misc. 151 (LPS)

RED TREE INVESTMENTS, LLC’S ATTACHED JUDGMENT STATEMENT

Red Tree Investments, LLC (“Red Tree”) submits the following Attached Judgment Statement pursuant to Paragraph 32 of the October 4, 2022 Sale Procedures Order, *Crystallex Int’l Corp. v. Bolivarian Republic of Venezuela*, No. 17 Misc. 151 (LPS) (the “Crystallex Action”), D.I. 480-1, and the Letter from Special Master Robert B. Pincus to the Court dated August 7, 2023, Crystallex Action, D.I. 652.

1. A Short Summary of the Parties’ Underlying Dispute

Red Tree owns debt issued by Petróleos de Venezuela, S.A. (“PDVSA”) under three contracts executed in 2015 and 2016 – two note agreements (“2015 Note Agreement” and “2016 Note Agreement”) and one credit agreement (“2016 Credit Agreement”). *See Red Tree Invs., LLC v. Petróleos de Venez., S.A.*, No. 19 Civ. 2519 (S.D.N.Y.) (“-2519 Action”), D.I. 123 ¶¶6-36; *Red Tree Invs., LLC v. Petróleos de Venez., S.A.*, No. 19 Civ. 2523 (S.D.N.Y.) (“-2523 Action”), D.I. 124 ¶¶5-32. PDVSA defaulted on its obligations under the contracts and remains in default today. *See Red Tree Attachment Motion at 3, Red Tree Invs., LLC v. Petróleos de Venez., S.A.*, No. 22 Misc. 68 (LPS), D.I. 3.

2. A Description of Any Collection Efforts by the Judgment Holder to Date

On February 8, 2022, Red Tree filed a motion for a writ of attachment in the District of Delaware in the cases captioned *Red Tree Investments, LLC v. Petróleos de Venezuela, S.A.*, Nos. 22 Misc. 68 & 22 Misc. 69 (LPS) (D. Del.). On April 28, 2022, Red Tree received a conditional writ of attachment on the PDVH shares held by PDVSA. *See id.* D.I. 16.

Red Tree has received a preliminary attachment of certain assets located in Portugal. The preliminary attachment was granted on an *ex parte* basis, has not been finalized, and is subject to challenge. The preliminary attachment has not resulted in any proceeds or collection. There has been no discussion of a settlement or partial settlement of Red Tree's claim with respect to the preliminarily attached assets, and Red Tree does not possess an OFAC license to engage in such settlement discussions.

Venezuela continues not to pay principal and interest payments due under these contracts.

3. The Initial Amount of the Applicable Judgments

In February 2019, Red Tree sued PDVSA, and the debt's guarantor, PDVSA Petróleo, S.A. ("Petróleo"), in New York state court to recover unpaid principal and interest on these contracts. *See* -2519 Action, D.I. 1; -2523 Action, D.I. 1. PDVSA and Petróleo removed both cases to federal court. *Id.* On January 6, 2022, the court entered judgment in both cases in favor of Red Tree and against PDVSA and Petróleo:

- (a) The final judgment in the amount of **\$157,940,211.36** (the "-2519 Action Judgment") in the -2519 Action, D.I. 143. *See* Exhibit 1.
- (b) The final judgment in the amount of **\$88,401,385.88** (the "-2523 Action Judgment") in the -2523 Action, D.I. 143. *See* Exhibit 2.

On March 9, 2023, the court entered judgment on Red Tree's fees and expenses for litigating the -2519 Action Judgment and the -2523 Action Judgment in favor of Red Tree and against PDVSA and Petróleo:

- (c) The final judgment in the amount of **\$2,446,043.36** (the “Fee Judgment” and, together with the -2519 Action Judgment and the -2523 Action Judgment, the “Red Tree Judgments”) in the -2519 and -2523 Actions. *See* Exhibit 3.

The Fee Judgment was not included in Red Tree’s original proposed writ of attachment filed in *Red Tree Investments, LLC v. Petróleos de Venezuela, S.A.*, Nos. 22 Misc. 68 & 22 Misc. 69 (D. Del.). Red Tree believes that the Fee Judgment is ancillary to the -2519 Action Judgment and the -2523 Action Judgment and does not require a separate application or motion to amend the proposed writ (which has not yet been served or delivered). It is Red Tree’s position that all creditors should be permitted to include in their claims all reasonable and documented enforcement costs through the date of any sale that are reimbursable under the terms of relevant governing documents. However, Red Tree stands ready to proceed in whatever fashion the Special Master requires to ensure that the Fee Judgment is included as an Attached Judgment.

4. The Amount by Which the Judgments Have Been Reduced, If at All, as a Result of Any Collection Efforts by the Judgment Creditor

As of the date of this statement, the Red Tree Judgments have not been reduced, and are not subject to any setoff, as a result of any collection efforts by Red Tree or otherwise.

5. The Proposed Rate at Which Post-Judgment Interest Is, or May Be, Accruing on the Applicable Judgments, Including a Proposed Formula To Be Used for Calculation of Post-Judgment Interest on a Daily Basis

The Red Tree Judgments accrue post-judgment interest at the relevant default interest rate specified in the judgments:

- (a) for the -2519 Action Judgment, at the rate of 8.50% per annum, since January 6, 2022;
- (b) for the -2523 Action Judgment, at the rate of 9.50% per annum, since January 6, 2022; and
- (c) for the Fee Judgment, at the rate of 5.04% per annum, compounded annually, since March 9, 2023.

Applying these post-judgment interest rates, the amount of post-judgment interest owing as of the date of this statement, August 14, 2023, is:

- (a) **\$21,516,649.34** for the -2519 Action Judgment;
- (b) **\$13,460,019.23** for the -2523 Action Judgment; and
- (c) **\$53,365.29** for the Fee Judgment.

Thus, the total amount that remains outstanding on the Red Tree Judgments as of August 14, 2023, which reflects the sum of the amount of the initial judgments and the amount of the post-judgment interest, is **\$283,817,674.47**.

Concurrently with this statement, Red Tree is sending to the Special Master and his advisors an Excel document with calculations supporting the foregoing. The Special Master is respectfully directed to the Excel document Red Tree has sent for all formulas needed to calculate post-judgment interest. Red Tree stands ready to supply any additional information the Special Master requires.

Dated: August 14, 2023

Respectfully submitted,

Steven F. Molo (admitted *pro hac vice*)
Justin M. Ellis (admitted *pro hac vice*)
Lauren F. Dayton (admitted *pro hac vice*)
Mark W. Kelley (admitted *pro hac vice*)
Ryan Yeh (admitted *pro hac vice*)
MOLOLAMKEN LLP
430 Park Avenue, 6th Floor
New York, NY 10022
Tel.: (212) 607-8170
Fax: (212) 607-8161

Lois S. Ahn (admitted *pro hac vice*)
MOLOLAMKEN LLP
600 New Hampshire Avenue, N.W.
Washington, D.C. 20037
Tel.: (202) 556-2000
Fax: (202) 556-2001

/s/ Rebecca L. Butcher

Rebecca L. Butcher (#3816)
Jennifer L. Cree (#5919)
LANDIS RATH & COBB LLP
919 Market Street, Suite 1800
Wilmington, DE 19801
Tel.: (302) 467-4400
butcher@lrclaw.com
cree@lrclaw.com

Counsel for Red Tree Investments, LLC

CERTIFICATION

I certify that

- (a) the information contained in this Attached Judgment Statement is a true and accurate recitation of the initial and outstanding amounts of the judgments held by Red Tree; and
- (b) in the event the initial and outstanding amounts of the judgments described in this Attached Judgment Statement change, for any reason, the undersigned shall promptly, and in any event not more than three (3) business days following such change, notify the Special Master of the revised judgment amount.

Executed: August 14, 2023
New York, New York



Mark W. Kelley

Counsel for Red Tree Investments, LLC